United Nations A/HRC/30/49

General Assembly

Distr.: General
7 August 2015

Original: English

Human Rights Council
Thirtieth session
Agenda items 3 and 5
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Human rights bodies and mechanisms

Role of local government in the promotion and protection of human rights – Final report of the Human Rights Council Advisory Committee

GE.15-13369(E)

Please recycle

Contents

		Page
I.	Introduction	3
II.	Definition of local government	3
III.	States and local governments: Shared and complementary duties to respect, protect and fulfil human rights	5
IV.	Role of local government in the protection and promotion of human rights	7
V.	Main challenges faced by local governments in the protection and promotion of human rights	9
VI.	Human rights mechanisms at the local level	10
VII.	Human rights city: Conceptual framework and guiding principles	11
VIII.	Role of civil society in the planning and implementation of activities for the promotion and protection of human rights at the local level	14
IX.	Best practices	14
X.	Conclusions and recommendations	17

I. Introduction

1. In August 2012, the Human Rights Council Advisory Committee submitted a research proposal on local government and human rights (A/HRC/AC/9/6) to the Council for its consideration and approval.

2. On 26 September 2013, the Council adopted resolution 24/2, in which it took note of the above-mentioned research proposal and requested the Advisory Committee to prepare a research-based report on the role of local government in the promotion and protection of human rights, including human rights mainstreaming in local administration and public services, with a view to compiling best practices and main challenges, and to present a progress report thereon to the Council at its twenty-seventh session.

3. The Advisory Committee was also requested to seek the views and inputs of Member States, relevant international and regional organizations, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and relevant special procedures, as well as national human rights institutions and non-governmental organizations (NGOs), in order to prepare the above-mentioned report.

4. At its twelfth session, in February 2014, the Advisory Committee established a drafting group tasked with the preparation of the said report and designated the following members of the Committee as members of the drafting group: Mario Luis Coriolano, Hoda Elsadda, Latif Hüseynov (Rapporteur), Anantonia Reyes Prado, Dheerujlall Seetulsingh (Chair), and Imeru Tamrat Yigezu. Subsequently, Katharina Pabel joined the drafting group and replaced Mr. Seetulsingh as Chair, while Ms. Elsadda replaced Mr. Hüseynov as Rapporteur. Changrok Soh and Laura-Maria Crăciunean also subsequently joined the drafting group.

5. The drafting group elaborated a questionnaire, in accordance with Council resolution 24/2, which was disseminated to different stakeholders. To date, a total of 67 responses have been received: 22 from States, 20 from national human rights institutions, 10 from NGOs, 12 from local authorities and 3 from international or regional organizations.

6. In line with Human Rights Council resolution 24/2, a progress report was submitted to the twenty-seventh session of the Council with the recommendation that the Council request the Advisory Committee to submit a final report at its thirtieth session. At its twenty-seventh session, the Council adopted resolution 27/4, which took note with appreciation of the Advisory Committee's progress report, and requested the Committee to continue its research and to submit a final report on the role of local government in the promotion and protection of human rights to the Human Rights Council at its thirtieth session.

7. The Council also requested the Committee, when elaborating the final report, to include therein the main challenges faced by local governments in the promotion and protection of human rights, and to make recommendations on tackling those challenges based on best practices in human rights mainstreaming in local administration and public services.

II. Definition of local government

8. Local government is commonly defined as the lowest tier of public administration within a given State. In unitary States, local government usually comprises the second or third tier of government, whereas in federal States, it is constituted as the third or sometimes fourth tier of government. Local government aims at bringing government to the

grass roots and enabling citizens to participate effectively in the making of decisions affecting their daily lives. As the level closest to the citizens, local government is, in principle, in a much better position than central government to deal with matters that require local knowledge and regulation on the basis of local needs and priorities.

9. The organization and functioning of local government vary considerably between countries. Different names are used for local government entities in different countries (county, prefecture, district, city, town, borough, parish, municipality, village, etc.). Local governments exist geographically both in urban and rural settings.

10. Local governments possess certain powers conferred upon them by legislation or directives of the higher levels of government.[1] These powers consist, in substance, in regulating and managing certain public affairs related to the local surroundings and delivering certain public services. The extent of powers of local government should always be analysed in the context of relations between local authorities and central government or regional authorities. In general, in unitary States, central governments tend to shoulder the responsibility for the planning, programming, regulating and funding of houses, and local governments manage implementation with varying degrees of autonomy. In federal systems, on the other hand, local governments tend to have more autonomy regarding programmes, policies and implementation of housing (Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Leilani Farha (A/HRC/28/62)). One of the important features of local government is that it has a specific, subordinate regulatory power for the exercise of its function which is, however, subject to compliance with the law.

11. Although in some countries "local government" and "local self-government" are used interchangeably, given the fact that local government has different forms in different countries, these two concepts should be differentiated. Local public administration can be exercised not only by local self-government entities (e.g. municipalities), but also by local units of State administration: the former are directly elected by the local population and enjoy wide-ranging autonomy, whereas the latter act as agents of the higher authorities and their officials are appointed by and accountable to those authorities. Local self-government is thus based on the principle of decentralization, and local State administration is based on the principle of deconcentration.

12. The degree of self-government enjoyed by local authorities can be regarded as a key element of genuine democracy. In this regard, political, fiscal and administrative decentralization is essential for localizing democracy and human rights. It should be borne in mind that democracy is not possible without respect for human rights and no human right can be achieved without democracy. Nevertheless, local self-government does not automatically lead to participatory democracy. While decentralization in general works towards the empowerment of citizens in decision-making and control over policies, certain measures and procedures must be securely in place to create the necessary environment to make democratic participation possible and effective.

13. The role of local authorities should not be limited to mere executors of decisions taken and policies developed without them. On the other hand, local independence should have certain limits clearly prescribed by law, and mechanisms should be available for supervising the legality of local authorities' activities. Democratic checks and balances mechanisms are essential for augmenting the capability of local government in

[1] In Brazil, municipalities are part of the Federation and not just dependent divisions of the State, in accordance with the Constitution.

implementing human rights. Government officials who are accountable to voters are more likely to respond to citizens' demands than those who are not.[2]

14. To ensure effective local governance and adequate implementation of human rights at the local level, it is important to have a proper legal framework for local government. The organization, powers and functions should be clearly prescribed by law. Further, national legislation should delineate clearly the responsibilities and powers of central and local government authorities in relation to one another.

15. Local government should preferably be recognized in the national constitution; indeed, in a number of countries, the constitutions specifically protect local government autonomy. It should be underlined that constitutional protection provides the greatest guarantee of stability. A specific law on local government passed by a national parliament is the next best solution in this regard. In a few countries, legal safeguards are in place to maintain the stability of laws governing local government. In Hungary, for example, the Law on Local Authorities can be adopted or amended only by a two-thirds majority of the parliamentarians present. The same applies to any legislation restricting the rights associated with local self-government.

16. It is noteworthy that the principles of subsidiarity, decentralization and accountability are explicitly envisaged in a number of countries as main principles of local government. Furthermore, the respective laws provide for the right of local authorities to have recourse to a judicial remedy in order to ensure respect for such principles.

III. States and local governments: Shared and complementary duties to respect, protect and fulfil human rights

17. As a matter of international law, the State is one single entity, regardless of its unitary or federal nature and internal administrative division. In this regard, only the State as a whole is bound by obligations stemming from international treaties to which it is a party. Thus, by becoming a party to an international human rights treaty, a State assumes obligations to respect, protect and fulfil human rights. More specifically, only States are obliged to submit reports as required by the respective universal and regional human rights treaties, and only States can be the subject of individual or inter-State complaints under such treaties. Furthermore, a State appearing before an international human rights complaints mechanism cannot defend itself by claiming that the alleged violation was committed by a local authority.

18. It should also be emphasized that under general international law a State, as represented by the central government, is responsible for all acts of all its organs and agents.[3] In addition, when it comes to State responsibility, despite its internal organization, in accordance with customary international law, there are several principles that apply. Firstly, the structure of the State, the functions of State organs and even the mere definition of what constitutes a State organ are not, in general, governed by international law. It is within State sovereign competence to decide how its own administration is to be structured

[2] International Institute for Democracy and Electoral Assistance, "Democratic Accountability and Service Delivery: A Desk Review", January 2013, available from http://www.idea.int/resources/analysis/democratic-accountability-and-service-delivery-a-desk-review.cfm

[3] In this respect, a reference could be made, *mutatis mutandis*, to art. 50 of the International Covenant on Civil and Political Parties, according to which the provisions of the Covenant "shall extend to all parts of federal States without any limitations or exceptions".

and which functions are to be ascribed to its central and/or local government. But, while the State remains free to determine its internal structure and functions through its own law and practice,[4] for the purposes of international responsibility the conduct of its institutions, administrative divisions performing public functions and exercising public powers is attributable to the State, even if those institutions are regarded, in domestic law, as autonomous and/or independent of the central executive government.

19. According to customary international law, it is recognized that "the conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central government or of a territorial unit of the State".[5] In its General Comment No. 16, the Committee on Economic, Social and Cultural Rights emphasized, "Violations of the rights contained in the Covenant can occur through the direct action of, failure to act or omission by States parties, or through their institutions or agencies at the national and local levels".[6] It should be noted that the conduct of certain institutions exercising public powers is attributed to the State even if those institutions are regarded in internal law as autonomous and independent of the executive Government.[7]

20. Illegal acts of any public authority, including local government, are attributable to the State even if they are *ultra vires* or contravene domestic laws and instructions. This flows directly from the principle contained in article 27 of the Vienna Convention on the Law of Treaties, according to which a State Party "may not invoke the provisions of its internal law as justification for its failure to perform a treaty".

21. It is the central government which has the primary responsibility for the promotion and protection of human rights, while local government has a complementary role to play. Upon ratifying an international human rights treaty, a State may delegate implementation thereof to lower tiers of government, including local authorities. In this respect, the central government might need to take necessary measures at the local level, in particular, to establish procedures and controls in order to ensure that the State's human rights obligations are implemented. Local authorities are obliged to comply, within their local competences, with their duties stemming from the international human rights obligations of the State. Local authorities are actually those who are to translate national human rights strategies and policies into practical application. Representatives of local authorities should therefore be involved in the drafting of such policies. In decentralized States, local government can play a more proactive and autonomous role as regards the protection and promotion of human rights. Institutionalized cooperation on human rights between the central and local governments can have a positive impact on the level of implementation of the international human rights obligations of the State.

22. To comply with their human rights responsibilities, local authorities should have necessary powers and financial resources. Adequate implementation of human rights, particularly economic, social and cultural rights, by local authorities require financial

[4] Draft articles on Responsibility of States for internationally wrongful acts, adopted by the International Law Commission at its fifty-third session (2001), *Official Records of the General Assembly, Fifty-sixth session, Supplement No. 10* (A/56/10), art. 4, para. 2.

[5] Ibid., sect. IV.E.1.

[6] General Comment No. 16 (2005), the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights), para. 42, available from http://www.refworld.org/docid/43f3067ac.html

[7] Commentaries to the draft articles on Responsibility of States for internationally wrongful acts (see footnote 4 above, sect. IV.E.2), p. 82, available from http://www.eydner.org/dokumente/darsiwa_comm_e.pdf.

resources, which are not available everywhere; this should be taken into consideration both at the national and international level. It should be particularly emphasized that, whatever powers that are conferred upon local authorities, they would not be effective if no financial resources were available to carry them out.

23. The principle of shared responsibility of different tiers of government for the protection and promotion of human rights has been on several occasions underlined by the United Nations human rights treaty bodies. Thus, in its General Comment No. 4 (the right to adequate housing), the Committee on Economic, Social and Cultural Rights noted that States parties to the International Covenant on Economic, Social and Cultural Rights should take steps "to ensure coordination between ministries and regional and local authorities in order to reconcile related policies (economics, agriculture, environment, energy, etc.) with the obligations under article 11 of the Covenant".[5]

IV. Role of local government in the protection and promotion of human rights

24. The legislation of a number of States – in some cases, at the constitutional level – explicitly requires local government to respect human rights (e.g. Australia, Côte d'Ivoire, Morocco and Slovenia). In some other States, the respective constitutional requirement applies to all public powers (e.g. Austria, Azerbaijan, Bosnia and Herzegovina, Germany, Kenya, Lithuania, Malaysia, South Sudan, Spain and Togo). In Luxembourg, the powers of the communes must be exercised in accordance with the law, which means that they are obliged to observe human rights guaranteed by the law. In some countries, the duty of local government to observe human rights is limited in the law to specific rights or principles. For instance, the Local Self-Government Act of Serbia stipulates that municipalities must ensure promotion and protection of the rights of national minorities and ethnic groups. In Slovenia, municipal administrations are required by law to take care of gender mainstreaming. In Ireland, the local government legislation does not specifically provide for the promotion and protection of human rights, but in discharging their functions local authorities are required to have regard for the need to promote social inclusion. Similarly, the legislation on local governments in India does not specifically mention protection of human rights among their responsibilities; however, the constitutionally mandated municipal functions directly relate to core human rights, such as implementation of initiatives for democratic inclusion, welfare measures and the local justice system.

25. Having an explicit legal provision which obliges local government to promote and protect human rights appears to be a more preferable approach. Local authorities are thus made aware of their human rights responsibilities, understanding that any failure to comply with these responsibilities will entail their liability under national law as well as international responsibility of the State as a whole. Further, such a provision imposes a clear obligation on local authorities to apply a human rights-based approach to delivering public services within their defined competences. Consequently, it may well encourage rights holders to claim their rights vis-à-vis local authorities.

26. Local authorities are close to citizens' everyday needs and they deal with human right issues on an everyday basis. Therefore, there exists a clear and strong connection between human rights and local government. When performing their functions, local

[5] Committee on Economic, Social and Cultural Rights General Comment No. 4, the right to adequate housing (art. 11 (1) of the Covenant), para. 12, adopted at the Sixth Session of the Committee on Economic, Social and Cultural Rights, on 13 December 1991, available from http://www.refworld.org/docid/47a7079a1.html.

authorities take decisions relating in particular to education, housing, health, the environment, and law and order, which are directly connected with the implementation of human rights and which may enforce or weaken the possibilities of its inhabitants to enjoy their human rights. Furthermore, local government is always facing the risk of discriminatory practices against perceived outsiders, such as immigrants or ethnic minorities, to the local community. In the area of housing, for example, "scapegoating, stigmatization and discrimination against homeless people" are often more pronounced at the local level. Integrating a human rights dimension in all local government initiatives is vital for addressing these violations. Actually, it is difficult to imagine a situation of human rights being realized where there are no local authorities to provide the necessary services. Local officials are thus responsible for a wide range of human rights issues in their day-to-day work. However, this work is rarely perceived as human rights implementation, neither by the authorities, nor by the public. Consequently, human rights remain distant as a frame of reference or analysis in most policies and practices at the local level, while they may actually be human rights in practice." In this regard, it should be borne in mind that the real effect of human rights is experienced locally.

27. Human rights duties of local government follow the classical tripartite typology of States' human rights obligations, namely, the duty to respect, the duty to protect and the duty to fulfil. The duty to respect means that local officials must not violate human rights through their own actions. It requires local government to refrain from interfering with the enjoyment of the rights and freedoms of all persons within its jurisdiction. For example, in relation to the freedom of religion, local government may not prohibit religious communities, beyond the permissible limitations, from using public squares or municipal buildings for religious celebrations. Regarding the right to health, local government may not deprive certain communities or groups of access to health care facilities. The duty to protect requires measures to ensure that third parties do not violate the rights and freedoms of the individual. For example, local authorities are required to take action to ensure that children are not prevented by others from attending school. The duty to protect can necessitate creating safer urban environments that reduce the risk of violence, for example against women. The duty to fulfil means that local government must take positive action to facilitate the enjoyment of the rights and freedoms. For example, local authorities are obliged to fulfil the right to education by sustaining a good educational system. To comply with the duty to fulfil the right of individuals not to be discriminated against, local human rights mechanisms such as ombudspersons or specialized anti-discrimination agencies can be established.

28. Further, local authorities should promote the understanding of and respect for human rights of all individuals within their jurisdiction through education and training. In particular, local authorities should organize, on a systematic basis, human rights training for their elected representatives and administrative staff, and the dissemination of relevant information among citizens about their rights. By promoting human rights, local authorities can help build a culture of human rights in the community.

29. Local authorities should pay particular attention to the promotion and protection of rights of vulnerable and disadvantaged groups such as persons with disabilities, ethnic minorities, indigenous communities, victims of sexual discrimination, children and elderly

" Congress of Local and Regional Authorities (Council of Europe), Strasbourg, 25–27 March 2014, 26th session, CG(26)5FINAL, "Best practices of implementation of human rights at local and regional level in member states of the Council of Europe and other countries" (Rapporteur: O. Molin), Resolution 365 (2014), Explanatory Memorandum, paras. 8, 14, available from http://www.coe.int/t/congress/texts/RESOLUTIONS_en.asp?mytabsmenu=6.

people. In this respect, the quality of the services that local governments provide to such groups "tests" the degree to which local governments in practice respect human rights.[10]

30. In a number of countries, efforts are made to mainstream human rights into local authorities' activities. Thus, measures are taken to foster participatory governance, to conduct human rights-based audits and impact assessments, to reframe local concerns as human rights issues, to establish procedures for verifying the compatibility of local policies and regulations with human rights, to report on local compliance with human rights treaties, to provide systematic human rights training to local civil servants, to raise public awareness of human rights, etc. Drafting a local human rights charter (or human rights ordinance)[11] setting out specific human rights responsibilities that fall upon the local government can be regarded as another important step towards localizing human rights. In this context, it is highly desirable that local authorities have human rights offices with sufficient human and financial resources that could fully take charge of human rights issues within the respective local competences.

V. Main challenges faced by local governments in the protection and promotion of human rights

31. The main challenges faced by local governments in the protection and promotion of human rights are political, economic and administrative. The biggest challenge facing local governments is lack of political will, particularly in countries with non-democratic systems or with incipient democracies. This is exacerbated by political conflicts and tensions in the country. Local governments in such States suffer from a lack of autonomy and the absence of long-term vision/planning and/or commitment. In some cases, tensions and power struggles may exist between central and local governments, especially in situations of instability or conflict. Furthermore, in States with a highly centralistic structure it may also be difficult to develop a strong political effort for human rights at the local level. The lack of autonomy and self-government inhibits the accountability and the sense of responsibility for the implementation of human rights. Centralized policies and structural adjustment measures may often impede the observance of human rights in local governments.

32. A second challenge to local governments that obstructs their implementation and promotion of human rights is shortage in institutional capacity and/or resources, due either to the lack of political will to enable local governments, or to the difficult economic situation in the country. The report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Leilani Farha, on the roles of local and other subnational levels of government, highlights the conclusion that "decentralization is not always favourable to the implementation of the right of adequate housing" (A/HRC/28/62, para. 71). For even though decentralization is potentially conducive to participatory democracy, citizen engagement, transparency and accountability, these positive features remain contingent on the existence of mechanisms and political will to implement democratic governance. Lack of the necessary resources and budgets to finance the implementation of projects and services at the local level undermines the ability of local governments and detracts from their legitimacy in local communities.

[10] Ibid.

[11] Human rights ordinances adopted in several cities in the United States of America, beginning with the San Francisco Committee on the Elimination of Discrimination against Women ordinance, could be specifically mentioned, as they represent a good example of incorporation of human rights into local policies and measures.

33. A third challenge is the lack of adequate coordination between central and local governments. A problem also arises where laws regarding the competence sharing between central government and local government are not simple, accessible and clear. A clear-cut division of powers between the different tiers of government is the precondition for the establishment of accountability, and hence the precondition for the implementation of human rights. It must become self-understood that every authority provided with public powers has to respect, protect and fulfil human rights. The linkage between the exercise of public powers and the observance of human rights is often/sometimes neglected at the local level.

34. A further challenge is the lack of information about the requirements resulting from human rights at the local level. Every person in charge of the local government must be aware of the obligations imposed by human rights. Often this awareness lacks a well-founded knowledge about the content and the scope of human rights. As a result, many local governments fail to understand and incorporate human rights into local policy and practice. Efforts to increase human rights coordination are marred by a lack of transparency.[12]

35. The fifth challenge to local governments is the non-recognition of the role and contributions from civil society. This is usually coupled with a lack of understanding of human rights at the local government level. Failure to recognize and work with civil society curtails efforts by local governments to reach marginalized communities.

36. Another challenge to local government is the absence of human rights obligations in the priorities of donor and international development agencies in the context of decentralization. For example, in Indonesia, the International Monetary Fund, the World Bank, the Asian Development Bank, the United Nations Development Programme and other donor agencies promoted decentralization while disregarding human rights.[13]

VI. Human rights mechanisms at the local level

37. The protection of human rights requires independent human rights mechanisms. Such mechanisms may take different forms in different communities, and there are several examples that could serve as a model for the implementation of human rights at the local level – local ombudspersons, consumer complaints boards, patient injury boards, anti-discrimination agencies, etc. The competences and structures of these mechanisms can be very diverse, but they must be seen as important means of safeguarding human rights and handling citizens' complaints at first instance. Importantly, the establishment of a local human rights mechanism gives visibility to the role of local authorities in human rights protection. In order for them to effectively discharge their functions, these should be provided with sufficient human and financial resources and be accessible to everyone within the respective locality.

38. The European Charter for the Safeguarding of Human Rights in the City, adopted in Saint-Denis in 2000,[14] provides for the creation of ombudspersons as a prevention

[12] Human Rights Institute, Columbia Law School.

[13] Christopher Silver, "Do the donors have it right? Decentralization and changing local governance in Indonesia", in *Globalization and Urban Development*, Harry W. Richardson and Chang-Hee Christine Bae, eds. (Berlin, Springer, 2005). Quoted in Report of the Special Rapporteur on Adequate Housing, para. 25.

[14] This important document is the result of the preparatory work initiated in Barcelona in 1998 in the framework of the Conference "Cities for Human Rights", which was organized to commemorate the 50th anniversary of the Universal Declaration of Human Rights. Hundreds of mayors and political

mechanism and also as a means of upholding human rights at the local level. Ombudspersons monitor local administrations to ensure they do not violate the rights and principles set down in the Charter.

39. Only a few States have human rights protection mechanisms at the local level. For instance, in Switzerland, several cities have established ombudsperson offices. These offices are independent organs that mediate in case of conflicts between private individuals and the authorities. Even though they are not authorized to make binding decisions, only recommendations, they have proven to be a successful means to resolve disputes. In the Republic of Korea, several local governments have established human rights commissions. In the Netherlands, complaints regarding human rights violations can be filed with the national ombudsperson or with the complaint mechanism of a municipality. In Denmark, the Copenhagen Citizens' Counsellor was the country's first citizen counselling institution established by the Municipal Council to create an independent ombudsperson function in Copenhagen. Today, 21 municipalities have citizen counselling institutions. In Norway, municipalities have ombudspersons for certain administrative areas. In Bosnia and Herzegovina, a number of local governments have established human rights commissions, which acts as advisory bodies to municipal councils, although they are not a mechanism for the protection of human rights per se. In Australia, the Victorian Equal Opportunity and Human Rights Commission facilitate local government forums. It developed a toolkit for local government, which reviews local government programmes and practices upon request to ensure that they are compatible with the Victorian Charter of Human Rights and Responsibilities, and provides training to local councils. In Azerbaijan, the Council of Independent Experts at the Ombudsman Institute was established in April 2003, in which members of influential NGOs and civil society dealing with protection of human rights are represented. The Commissioner conducts conferences, trainings, round-table discussions and other activities in association with NGOs.[15]

40. In a number of countries (e.g. Azerbaijan, Ireland and Slovenia), the national ombudsperson office is empowered to investigate complaints not only against State agencies, but also local government authorities.

41. The Municipal Code of Guatemala establishes the obligation of local government to convene different social sectors of the municipality to participate in the development and institutionalization of municipal public policies and plans for urban and rural development. It also stipulates the preservation and promotion of rights of communities to their cultural identification according to their values, languages, traditions and customs. The Code also authorizes the establishment of commissions for compliance.

VII. Human rights city: Conceptual framework and guiding principles

42. The idea of a "human rights city" is one of the globally developed initiatives aimed at localizing human rights. It is based on the recognition of cities as key players in the promotion and protection of human rights, and refers in general to a city whose local government and local population are morally and legally governed by human rights principles. The concept was launched in 1997 by the People's Movement for Human Rights

representatives participated in the event and united their voices to call for a stronger political acknowledgement as key actors in safeguarding human rights in a highly urbanized world. Available from http://www.uclg-cisdp.org/en/right-to-the-city/european-charter#sthash.E5JeKdIt.dpuf.

[15] Azerbaijan, Institute of the Commissioner for Human Rights.

Education (PDHRE), a non-profit international service organization.[16] It was further developed, particularly as a normative concept, by the World Human Rights Cities Forum, which takes place annually in the city of Gwangju, Republic of Korea.

43. The Gwangju Declaration on Human Rights City, adopted at the 2011 World Human Rights Cities Forum on 17 May 2011, defines a human rights city as "both a local community and socio-political process in a local context where human rights play a key role as the fundamental values and guiding principles". A human rights city requires a shared human rights governance in the local context where local government, local parliament (council), civil society, the private sector and other stakeholders cooperate to improve the quality of life for all people in the spirit of partnership based on human rights standards and norms. A human rights-based approach to local governance includes the principle of democracy, participation, responsible leadership, transparency, accountability, non-discrimination, empowerment and rule of law. The concept of a human rights city also emphasizes the importance of securing the broad participation of all actors and stakeholders, in particular marginalized and vulnerable groups, and the importance of effective and independent human rights protection and monitoring mechanisms to which all people have recourse. It recognizes the importance of inter-local and international cooperation and solidarity among cities engaged in the promotion and protection of human rights.[17]

44. *The* Gwangju Guiding Principles for a Human Rights City, adopted at the 2014 World Human Rights Cities Forum on 17 May 2014, contains the following principles for a human rights city: the right to the city; non-discrimination and affirmative action; social inclusion and cultural diversity; participatory democracy and accountable governance; social justice, solidarity and sustainability; political leadership and institutionalization; human rights mainstreaming; effective institutions and policy coordination; human rights education and training; and right to remedy.

45. A number of cities throughout the world have officially declared themselves "human rights cities",[18] and several international networks of cities have developed.

46. Other concepts have been developed, both in doctrine and in practice, which essentially pursue the same objective. One of them is "the right to the city" first articulated by the French philosopher Henri Lefebvre;[19] it refers mainly to the right of the inhabitants and "users" of the city to participate in local public affairs and define the space of the city.[20] So far the concept of "the right to the city" has been institutionalized in a limited manner, examples being the City Statute of Brazil (2001), the Montreal Charter of Rights and Responsibilities (2006) and the Mexico City Charter for the Right to the City (2010).

---

[16] The Human Rights Cities Program run by PDHRE includes the development of 30 human rights cities and the training of 500 young community leaders at four Regional Learning Institutions for Human Rights Education.

[17] Gwangju Declaration on Human Rights City, full text available from http://www.uclg-cisdp.org/sites/default/files/Gwangju_Declaration_on_HR_City_final_edited_version_110524.pdf.

[18] Among them: Rosario (Argentina), which was the first human rights city, initiated in 1997; Bandung (Indonesia); Barcelona (Spain); Bihac (Bosnia and Herzegovina); Bogota (Colombia); Bongo (Ghana); Copenhagen (Denmark); Graz (Austria); Gwangju (Republic of Korea); Kaohsiung (Taiwan Province of China); Kati (Mali); Kotogocho (Kenya); Mexico City (Mexico); Mogale (South Africa); Montreal (Canada); Nagpur (India); Porto Alegre (Brazil); Prince George's County, Maryland (United States); Saint-Denis (France); Sakai (Japan); Thies (Senegal); Utrecht (the Netherlands); Victoria (Australia).

[19] Henri Lefebvre, *Le Droit à la Ville* (Paris, Ed. du Seuil, 1968).

[20] The Habitat International Coalition and its Housing and Land Rights Network have worked over the past decade to promote and develop the definition of "the right to the city."

47. The right to the city was specifically laid down in the World Charter for the Right to the City (2005);[21] a wide range of organizations and networks, including UNESCO and UN-HABITAT, participated in the preparation of this important document. The charter defines the right to the city as the equitable use of cities according to principles of sustainability, democracy, equity and social justice. It is a collective right of urban inhabitants that confers upon them the legitimate right to action and organization, based on respect of their differences, cultural expressions and practices, with the objective of exercising their right to self-determination and attaining an adequate standard of living. The right to the city is interdependent with other internationally recognized human rights, including civil, political, economic, social, cultural and environmental rights, as defined in international human rights treaties.

48. The concept of "the rights of the city" has emerged during the past decades as an alternative to the withdrawal of central and state governments' responsibilities and resources in the globalized market. Many cities are increasingly subordinated to central decision-making institutions, public budgets and investment, whereas municipalities have to fend for themselves and/or compete over resources for development and services, often without the authority to levy revenues or participate effectively in decisions affecting allocations. In such cases, local authorities face the prospect of resorting to the privatization of public goods and services – with their typically harmful economic consequences for the poor – and/or to seek fiscal support from the private financial market. The concept may refer to the administrative, political and economic rights of the local governments in relation to national/federal authorities, and to the presence and role of local authorities vis-à-vis the international and multilateral institutions (United Nations, World Bank, International Monetary Fund, etc.).

49. The concept of "human rights in the city", developed mainly in the European Charter for the Safeguarding of Human Rights in the City and Global Charter-Agenda for Human Rights in the City,[22] implies the commitment to: respect, protect and fulfil all internationally recognized human rights at the local level; give priority attention to marginalized groups and populations living under vulnerable conditions; and mainstream a human rights approach to local policies (not just the implementation of human rights programmes).

50. Meanwhile, best practices include policy initiatives that also recognize the validity of the approach to establish a "human rights habitat", with its more-embracing concept of the rural-urban continuum, and the conscious recognition that the same rights of city dwellers apply equally to other inhabitants of the periphery of urban centers, as well as those in more distant regions. One example of this appellation is the First Civic Forum of Nairobi declaring its city a "human rights habitat" (2002). This initiative emerged with the support of the local Mazingira Institute, with its environmental programme and scope. Also, the Habitat International Coalition and its Housing and Land Rights Network have worked over the past decade to promote and develop the definition of "the right to the city".

[21] Full text available from http://portal.unesco.org, http://www.urbanreinventors.net/3/wsf.pdf and www.hic-net.org.

[22] The charter was drafted by the United Cities and Local Governments (UCLG) Committee on Social Inclusion, Participatory Democracy and Human Rights. It was discussed and approved by elected representatives, experts and representatives of civil society from all over the world in 2011.

VIII. Role of civil society in the planning and implementation of activities for the promotion and protection of human rights at the local level

51. Most States responding to the questionnaire did not answer the question on the role of civil society in the planning and development of activities for the protection and promotion of human rights at the local level, or gave nonspecific answers. However, examples of replies note the participation of civil society organizations in trainings (Burundi). Other States reported NGOs as active, but not necessarily cooperating with the Government (Georgia, Hungary, Lebanon, Slovenia and Switzerland).

52. Civil society continues to be in the background of decision-making, rather than as a partner. The working conditions for NGOs in some countries are reportedly under government restrictions and they are prevented from receiving funds, and respondents claim that numerous violations of the human rights to freedom of expression and association for NGOs take place.

53. The majority of respondents clarified that the motives for promoting human rights are primarily based on struggles to counter human rights violations and human suffering that they have witnessed and/or endured. The Human Rights City model of Gwangju, Republic of Korea has spread to other cities in the spirit of the 18 May Gwangju Democratization Movement. The response from Prince George's County, Maryland (United States of America) made reference to roots in the local experience of a former slave-holding county.[2] Many respondents characterized violations as ongoing, including those arising from: economic insecurity and the financial crisis; corruption and armed conflict; authoritarian regimes; and discrimination based on gender, race and colour.

54. Following the Gezi Park Protests in Turkey, civil society has played an increasingly important role in organizing meetings and preparing reports on specific groups' expectations from local government authorities. Positive examples are initiatives undertaken by SPoD (a national lesbian, gay, bisexual, transgender and intersex NGO); two Internet-based social movements, the Association for the Support and Training of Women Candidates (KADER), Urbanism Movement of People, IULA-EMME (International Union of Local Authorities, Section for the Eastern Mediterranean and Middle East Region (currently UCLG-MEWA).[3]

IX. Best practices

55. Analysts of the responses received to the questionnaire shows that civil society plays an important role in boosting local action in the field of human rights in the respective countries. In Hungary, for example, NGOs can participate in the planning and in the implementation phase of regulations and programmes of the municipalities in accordance with the law. In Burundi, civil society participates actively in the training activities on human rights for the creation of programmes of information and awareness-raising. In India, civil society representatives have been contributing to strengthening the roles of local governments in effectively addressing rights of marginalized citizens at the local level. In Switzerland, NGOs are free to bring forth different projects, for example, against racism. In Luxembourg, the National Council for Foreigners is an example of the participation of civil society in the promotion and protection of human rights. The Council is composed of civil

[2] Prince George's County Human Relations Commission.

[3] Turkey, Human Rights Law Research Center, Istanbul Bilgi University.

society representatives and is a consultative body that studies the situations of foreigners and their integration. It gives recommendations on government projects and recommends policies. That said, it should also be noted that in some countries civil society does not have any role in protecting human rights at the local level.

56. Some initiatives are building local governments' and authorities' capacity on human rights: Burundi has targeted police for human rights training; Mexico conducts sessions for civil servants on the new constitutional principles, including human rights; Georgia focuses this capacity-building on citizens directly, rather than on local governments; the Australian Local Government Association and the National Human Rights Commission in Australia work in cooperation to operationalize human rights locally.

57. In Hungary, local governments are required to analyse the conditions of disadvantaged groups in their area and promote equal opportunities for them. Luxembourg mandates Consultative Commissions for social integration – these commissions make recommendations to the local governments. Burundi states as a best practice the cooperation between local government and the United Nations system. Luxembourg is promoting multilingualism and multiculturalism in public services, such as for integrating migrants.

58. In Australia, the Victorian Equal Opportunity and Human Rights Commission facilitate local government forums, and has developed a toolkit for local government. The Commission will review local government programmes and practices on request to ensure they are compatible with the Victorian Charter of Human Rights and Responsibilities, and will provide training to local councils.[25]

59. In 1980, the Sakai, Japan, City Government recognized the sanctity of human rights, and affirmed that it would enlist the efforts towards the realization of a "Human Rights Protection City". Sakai City subsequently advanced policy based on the human rights principles and later joined other local governments in formulating its own education and enlightenment plan called the "Sakai City Action Plan for the United Nations Decade for Human Rights Education". Following on from previous efforts, in 2007 Sakai enacted the "City Ordinance for Community Development Respecting Peace and Human Rights" and the Sakai City Human Rights Policy Promotion Plan", and has since comprehensively and systematically advanced human rights policy.

60. A programme of the People's Movement for Human Rights Education (PDHRE) since 1998, included the development of 30 human rights cities and the training of 500 young community leaders at four Regional Learning Institutions for Human Rights Education. By 2007, PDHRE had trained 100 community leaders, and 17 human rights cities were in development.[26]

61. In the Republic of Korea, several local governments and cities have been leading the human rights city movement domestically and internationally. Gwangju was the first human rights city officially announced in the Republic of Korea and Asia in 2010 with full-fledged programmes consisting of its Human Rights Charter, human rights action plan with human rights indicators, ombudsperson, etc. Other local governments, such as Seongbuk-gu and Chungnam Province, have also adopted the human rights city framework as a way to

[25] Australia, Department of infrastructure and regional development.

[26] Rosario, Argentina, Graz, Austria, Santa Cruz, Plurinational State of Bolivia, Bihac, Bosnia and Herzegovina, Porto Alegre, Brazil, Edmonton, Winnipeg, Canada, Temuco and Valparaiso, Chile, Bongo, Newton, Wa, Nimamobi, Walewale, Ghana, Nagpur, India, Korogocho, Kenya, Kita, Kati, Kayes, Sikasso, Timbuktu, Mali, Bucuy Municipality, Philippines, Musha, Rwanda, Thies, Senegal, Mogale, South Africa, Kaohsiung, Taiwan Province of China

address the challenges in their own contexts, such as a district city within a metropolitan city and an urban-rural complex area.

62. Seoul, the capital of the Republic of Korea, has also declared itself a human rights city and adopted an ordinance in 2012 to protect and promote human rights for its citizens. The ordinance establishes a Human Rights Division within the City Government, human rights policies, a Human Rights Ombudsperson, as well as concrete measures and guidelines to safeguard adequate housing and protect citizens from forced evictions. Other human rights ordinances include the Ordinance on the Promotion of Human Rights of Persons with Disabilities and the Ordinance on the Protection and Promotion of Human Rights of the Child and Youth. Human rights mechanisms include the Human Rights Division, which carries out human rights education programmes and builds cooperation with civil society, the Ombudsperson, the Seoul Committee on Human Rights and the Citizen Jury on Human Rights Cases. Major policies on human rights implemented by the Human Rights Division include the Seoul Action Plan on Human Rights, to mainstream human rights in overall administration. Human rights sensitivity has been enhanced through human rights education for civil servants and by supporting human rights organizations and activities.

63. Like Brazil's groundbreaking City Statute (2001), the Mexico City Charter also establishes new rights at a collective dimension of certain individual rights, such as the social function of property. This is a key component of the right to the city that entails fundamental urban reforms and the redistribution and regulation of urban land for the purpose of constructing a more just and inclusive city. The Mexico City Charter also incorporates at least two important principles addressing the right to the city as first articulated by Lefebvre: (a) the right to participate in decisions affecting urban inhabitants and the production of urban space; and (b) the right to appropriate urban space in favour of its use value over exchange value. Notably, these components include legal rights, social and political claims and material conditions.

64. The Alliance for Democracy and Tolerance against Extremism and Violence focuses on transferring successful projects and possible solutions among municipalities across regions of Germany. In certain cities, local equality bodies as well as regional commissions, human rights centres, equality bodies and other institutions are established by regional or local governments and maintained by law.[27] The "human rights city council" of the City of Graz (Austria) stands as one example.[28]

65. In Slovenia, the Local Government Act (§39) defines rights of national minorities and Roma population to have a formal representation in municipal council, and other municipalities might establish municipal bodies to deal with human rights issues. The programme for solving settlement issues of the Roma population is managed by the State and financially supported by the State budget.

66. In the United States, human rights mainstreaming in local administration is taking place through initiatives such as Bringing Human Rights Home: How State and Local Governments Can Use Human Rights to Advance Local Policy. It includes aspirational commitments to, and raising awareness of, human rights, reframing local concerns as human rights issues, reporting on local compliance with human rights treaties, conducting human rights-based audits and impact assessments, and fostering participatory governance. The federal role in respecting and ensuring human rights at the state and local level includes fostering additional reporting, monitoring and education initiatives. The Human Rights

[27] Austria, European Training and Research Centre for Human Rights and Democracy.
[28] Ibid.

Institute at Columbia Law School in the United States works to promote human rights at home and ensure United States compliance with international human rights standards. The project advocates for greater coordination of federal, state and local efforts to promote and protect human rights within the United States, working directly with state and local agencies. However, state and local efforts are *ad hoc*, patchwork and vulnerable to elimination through budget cuts.[29]

67. In Denmark, a development project was launched: "The municipality and Civil Society" (2008) to test the extent to which new ways to share responsibilities between the municipality and civil society can help to increase the quality of local government tasks. There is an untapped potential – both in terms of new areas for closer interaction and in relation to the involvement of new groups of volunteers.[30]

68. Graz is a member of the executive committee of the European City Coalition against Racism, the "Forum der Europapreisträgerstädte", and the cities coalition "Cities for Children", and was the Cultural Capital of Europe in 2003. In November 2009, Graz invited partner-towns to exchange successful methods of integration for immigrants against racism. Campaigns against racism and anti-discrimination have been organized with other cities and with NGOs.

69. Through its programme "Medellin protects Human Rights", the City Council seeks to guarantee for the city integral protection, acknowledgement, restoration and reparation of human rights. The organs empowered for the implementation of this goal are the Sub-Secretary of Human Rights, which is composed of three Units, including a Human Rights Unit, whose activities and some of its programmes are described by the collaborator. The Unit has the duty to coordinate its actions with the diverse national organs, social organizations and NGOs. The Unit includes a Municipal System for Information on Human Rights, which consists of a tool for the gathering, processing and analysis of information related to human rights and International Humanitarian Law.

70. In San Francisco, the Commission on the Status of Women is required by a city charter amendment to conduct gender analysis of its commissions and boards every two years. There also, the San Francisco Gender Equality Principles Initiative is a programme that helps companies around the world achieve greater equality and build more productive workplaces through practical implementations of the Initiative. A Violence against Women Prevention and Intervention Grants Program addresses domestic violence, sexual assault, and human trafficking in a variety of San Francisco communities. San Francisco's Collaborative against Human Trafficking, launched in 2010, comprises a diverse array of community-based organizations and government agencies dedicated to eliminating modern-day slavery from the city.[31]

X. Conclusions and recommendations

71. **Civil society should actively be involved in human rights planning and implementation at the local level. It can pressure local authorities into adopting a human rights-based approach and making them more engaged. It also has an important monitoring role and can provide independent information and assessment**

[29] Human Rights Institute. Columbia Law School

[30] Denmark, The Danish Institute for Human Rights, Questionnaire on local government and human rights", available at
http://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/LocalGvt/Denmark%20-%20Danish%20Institute%20for%20Human%20Rights.pdf

[31] San Francisco Department on the Status of Women

of local government performance. Civil society organizations may also work directly with local government to strengthen its human rights expertise and awareness.

72. Local public officials should keep up ongoing dialogue with citizens and with civil society. There have to be well-developed channels for this communication and collaboration.

73. Measures should be taken, both nationally and internationally, to strengthen civil society capacity to monitor and engage with local government. Outside large urban municipalities, civil society is often weak and has little experience of monitoring or cooperating with local government.[9] International city networks such as the United Cities and Local Governments (UCLG) can play a key role in developing toolkits, foster research, provide opportunities for peer-to-peer learning and create communities for action.

74. Central government is responsible for providing valuable information on human rights and their impact at the local level to local governments. This obligation to inform the respective bodies at the local level includes both human rights of the national constitution or other law and human rights guaranteed by international law. Developments in improving human rights on the international level (e.g. new treaties and conventions, recommendations, guidelines and examples of best practice) must be brought to the local level. In doing so, it is of utmost importance that there is more than mere information *in abstracto*. There is a need for making human rights more concrete and more practicable for the specific needs on the local level. Particularly when it comes to international guarantees of human rights, the central government has to translate the relevant issues of human rights protection into concrete measures to be taken or standards to be obeyed.

75. In making human rights more practicable and more effective on the local level, specific areas that are highly connected to the effective implementation of human rights at the local level should be identified. For example, if public services are provided at the local level, this can be identified as a field where non-discriminatory access must be guaranteed. In order to support the local government in the observance of human rights, "road maps" for human rights implementation for these specific areas should be developed. They could be a valuable tool to facilitate the implementation of human rights at the local level (by non-experts in human rights).

76. In its report to the Human Rights Council, the Advisory Committee emphasized the negative impact of corruption on the enjoyment of human rights (A/HRC/28/73). It recommended building up an integrated strategy for the promotion of human rights and for the fight against corruption. This outcome of the report is also relevant for the promotion of human rights at the local level. Specific attention should be paid to any area at the local level being prone to corruption, especially the provision of public services. On the one side, taking measures against corruption should be regarded as a human rights issue. On the other side, promoting human rights cannot be successful and effective without taking measures against corruption. Specific consideration should therefore be given to any preventive measures in this regard.

77. In the context of monitoring of the domestic implementation of international human rights commitments, the relevant United Nations mechanisms should encourage States to engage in a dialogue with local governments as well. Local authorities should be involved in the Universal Periodic Review (UPR) in respect of

[9] Local Government and Human Rights: Doing Good Service, p. 76.

their Government; this would improve the quality of the follow-up to the accepted recommendations. UPR recommendations and concluding observations of the United Nations treaty bodies should be disseminated by the central government to the local authorities. A reference should also be made to the Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific targeted documents, in which the reporting States are encouraged to ensure the "participation of governmental departments at the central, regional and local levels and, where appropriate, at the federal and provincial levels" (HRI/MC/2005/3, para. 50 (a)).

78. There is also a need to develop guiding principles for local government and human rights, taking into account various standards related to the role of local government and the city in implementing internationally recognized human rights. Such guiding principles, once adopted, will be a useful instrument to clarify the role of various actors and institutions, and to develop concrete strategies in implementing the recommendations of the present report and other recommendations from special procedures of the Human Rights Council, its UPR mechanism and United Nations treaty bodies.